

# SPECIAL ETHICS LAW MEMO

## Laws you should know about when: **LEAVING STATE EMPLOYMENT**

Several provisions of the Maryland Public Ethics Law apply specifically to officials and employees of the executive branch of State government as they prepare to leave the State and in certain circumstances, after they have departed. They prohibit an individual from profiting from his/her government position in the following ways:

1. Participation restriction (Md. Code Ann., General Provisions §5-501): An official or employee may not participate in his/her State capacity in matters in which he/she has an interest or which involve an entity with which he/she has applied for a position, is negotiating employment, or has arranged prospective employment.
2. Use of prestige of office (§5-506): An official or employee may not use the prestige (influence) of his/her office for his/her own gain or that of another. For example, an official or employee may include the fact that he/she is employed by the State in a resume and general information about the State position, but should not use the influence that accompanies that position to secure employment.
3. Post-employment restriction (§5-504(d)): A former official or employee who worked personally and significantly on a particular matter or contract in his/her State position may not, after leaving State service, represent or assist another party on that specific matter or contract. This restriction remains effective for as long as the matter or contract continues.

Note that the State Finance and Procurement Article also places certain restrictions on former officials and employees with respect to procurement matters. Section 13-212.1 (formerly §5-508 of the Public Ethics Law) generally prohibits persons from bidding on a procurement if that person assisted the State in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals. Furthermore, and very important for a former official or employee to know, this section of the State Finance and Procurement Article applies the same prohibition to an employer that employs a former official or employee who provided the type of assistance to the State as discussed above, even if that former official or employee has no role in preparing the proposal for the employer. Section 13-211 provides that, during a procurement process, a competing contractor or its agent or consultant may not make an offer or promise of future employment or business opportunity to, or engage in any discussion of future employment or business opportunity with, any procurement official of the agency conducting the procurement.

For more information please contact:

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